

in position, and at least a fastening band for connecting the fixing stand and the sensor unit to each other and fixedly fastening the living organism to the fixing stand while at the same time activating by pressing the sensor unit against the living organism. The pressure sensitive portion is pressed against the living organism to measure the pulse with the living organism fixed by the fixing device. The fastening band includes a first band portion with one end mounted on the sensor unit and the other end mounted on the fixing stand, and a second band portion with one end mounted on the sensor unit and the other end removably mounted on the fixing stand. The fixing stand includes a tensioning part for pulling the other end of the first band portion with a predetermined force. Claim 2 depends from claim 1 and further recites a fixing part for fixing the first band portion relatively immovably on the fixing stand with the other end of the second band portion mounted on the fixing stand.

The combination of elements defined by applicants' claims is neither disclosed nor suggested in O'Sullivan or Chesney, viewed alone or in combination. First, in paragraph 2 of the Action, the Examiner incorrectly equates O'Sullivan's band 52 and hold-down bubble 30 with applicants' claimed fastening band. In O'Sullivan's device, pressurized air is supplied by air tube 32 to hold-down bubble 30 and the bubble is inflated after the sensor and bubble are positioned correctly. That is not the claimed invention. Applicants' claimed fastening band connects, fixedly fastens and at the same time activates by pressing the sensor unit against the living organism. Thus, there is no need for O'Sullivan's hold-down bubble attached to a hold-down strap.

Next, the Examiner admits that O'Sullivan does not disclose one of the fastening band portions being removably mounted on the fixing stand or the stand including a tensioning part for pulling the other end of a band portion with a predetermined force. The Examiner attempts to supply the missing piece by finding in Chesney a wrist stabilizer base plate member 112 that is secured to a subject with straps 114 and 117, which form a manually-operated hook-and-loop fastener system to removably fasten a patient's forearm to the base plate member. Then, the Examiner equates Chesney's manually-operated hook-and-loop fastener system to the claimed

tensioning part for pulling the other end of the first band portion with a predetermined force. Applicants again respectfully disagree.

In applicants' invention, constant force spring 15 provides the tensioning part and is arranged in the housing 11 of the fixing stand 10. The constant force spring is defined as a spring including a long spring plate 17 bent with a predetermined radius of curvature and wound on a shaft 16, in which the return force generated when the forward end of the spring plate 17 is extended linearly is constant for any length of extension. The other end of the first band portion 31 inserted through the opening 13 is fixed at the forward end of the spring plate 17. When the first band portion 31 is pulled, the other end of the first band portion 31 is kept under a predetermined tension by the constant force spring 15.

In contrast, Chesney discloses a wrist stabilizer designed to encourage venous return blood flow by use of a manually-operated hook-and-loop fastener system to removably fasten the wrist stabilizer to a patient's forearm. Chesney provides no disclosure or suggestion of the claimed tensioning part for pulling the other end of the first band portion with a predetermined force, as such a tensioning part is unnecessary in Chesney's structure.

Applicants first note that the Examiner, in paragraph 4 of the Action, has attempted to read the limitation of "pulling" out of claim 1 by referring to the required action as "holds" or "hold" in two separate places. "Pulling" has an ordinary meaning of drawing toward with force; holding does not. Additionally, the Examiner refers to "pulling" only in the context that the pulling of the straps is done by the person applying the device. A person is not the claimed tensioning part for pulling the other end of the first band portion with a predetermined force, nor can it be since a person is not patentable subject matter. While Chesney's hook-and-loop fastener system may be able to hold an end of the first band portion, Chesney's hook-and-loop fastener system is devoid of any disclosure of pulling an end of the first band portion with a predetermined force, as in the claimed invention.

Even if the resulting combination suggested by the Examiner included all the limitations of claim 1, the cited references provide no evidence of a motivation to combine their disclosures

so as to arrive at the claimed invention. The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination. The Examiner has pointed to no disclosure in Chesney, the alleged evidence of such a motivation, which would have motivated a person of ordinary skill in the art to use O'Sullivan's arterial pulse sensor and Chesney's fastening mechanism.

Accordingly, the invention claimed is patentable over the cited references, and claim 1 should be allowed. The arguments above also dispose of the rejection of claim 2, which depends from claim 1.


In view of the above, each of the claims in this application is in condition for allowance. Accordingly, applicants solicit early action in the form of a Notice of Allowance.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **163852020400**.

Respectfully submitted,

Dated: November 30, 2006

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